

## Senate Bill No. 459

### CHAPTER 4

An act to amend Sections 731, 779, 780, 1000.7, 1009, 1176, 1177, 1178, 1179, 1703, 1712, 1714, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1725, 1726, 1732.8, 1737, 1737.1, 1752.82, 1754, 1757, 1760, 1765, 1766, 1766.1, 1767.1, 1767.3, 1767.4, 1767.5, 1768.10, 1772, 1778, 1780, 1781, 1800, 1802, and 1830 of, to add Sections 1731.8 and 1800.5 to, and to repeal Sections 1724 and 1727 of, the Welfare and Institutions Code, relating to juvenile offenders, making an appropriation therefor, to take effect immediately, as an appropriation for the usual and current expenses of the state.

[Approved by Governor April 7, 2003. Filed with  
Secretary of State April 8, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 459, Burton. Youthful Offender Parole Board.

(1) Existing law sets forth the powers and duties of the Youthful Offender Parole Board, including the power to consider and make decisions regarding eligibility for parole for wards who have been committed to the Department of the Youth Authority.

This bill would abolish the Youthful Offender Parole Board and instead create the Youth Authority Board within the Department of the Youth Authority. The bill would consolidate the duties of the Youthful Offender Parole Board in the Department of the Youth Authority and the Youth Authority Board, as specified, and make related and conforming changes. The bill would set forth the membership of the Youth Authority Board and would require those members to receive specified training. The bill would require the Youth Authority Board to exercise specified powers and duties, including discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals. The bill would require the Department of the Youth Authority to exercise specified powers and duties, including determining offense categories, setting parole consideration dates, making decisions regarding disciplinary actions, and returning persons to the court of commitment for redispotion by the court. The bill would also require the department to notify the probation department and the court of the parole consideration dates. The bill would also require the Department of the Youth Authority to provide the court and the probation department with a treatment plan for the ward, and an estimated timeframe within which the treatment recommended by the

court will be provided, as specified. The bill would require the department to conduct an annual review of the case of each ward and to provide copies of the review to the court and the probation department. The bill would also provide that a minor may not be held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court, as specified. These provisions described above would become operative on January 1, 2004.

(2) The bill would express the intent of the Legislature that the Youth Authority Board be housed within the Department of the Youth Authority. The bill would require the Department of General Services to evaluate options regarding current leases and to determine when a move is appropriate.

(3) The bill would appropriate the sum of \$1,550,000 from the General Fund to the Youthful Offender Parole Board to supplement funding provided in the Budget Act of 2002.

(4) The bill would declare that it is to take effect immediately as a statute providing an appropriation for the usual and current expenses of the state.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 731 of the Welfare and Institutions Code is amended to read:

731. (a) If a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730 and, in addition, may order the ward to make restitution, to pay a fine up to the amount of two hundred fifty dollars (\$250) for deposit in the county treasury if the court finds that the minor has the financial ability to pay the fine, or to participate in uncompensated work programs or the court may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of that minor or may commit the minor to the Department of the Youth Authority.

(b) A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. A minor committed to the Department of the Youth Authority also may not be held in physical confinement for a period of time in excess of the maximum term



of physical confinement set by the court based upon the facts and circumstances of the matter or matters which brought or continued the minor under the jurisdiction of the juvenile court, which may not exceed the maximum period of adult confinement as determined pursuant to this section. This section does not limit the power of the Youth Authority Board to retain the minor on parole status for the period permitted by Section 1769.

SEC. 2. Section 779 of the Welfare and Institutions Code is amended to read:

779. The court committing a ward to the Youth Authority may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefor shall be served by United States mail upon the Director of the Youth Authority. In changing, modifying, or setting aside the order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system of the Youth Authority or of the correctional school in which the ward may have been placed by the Youth Authority. Except as in this section provided, nothing in this chapter shall be deemed to interfere with the system of parole and discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole and discharge of wards of the juvenile court committed to the Youth Authority, or with the management of any school, institution, or facility under the jurisdiction of the Youth Authority. Except as provided in this section, this chapter does not interfere with the system of transfer between institutions and facilities under the jurisdiction of the Youth Authority. This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment consistent with Section 734.

However, before any inmate of a correctional school may be transferred to a state hospital, he or she shall first be returned to a court of competent jurisdiction and, after hearing, may be committed to a state hospital for the insane in accordance with law.

SEC. 3. Section 780 of the Welfare and Institutions Code is amended to read:

780. If any person who has been committed to the Youth Authority appears to be an improper person to be received by or retained in any institution or facility under the jurisdiction of the Department of the Youth Authority or to be so incorrigible or so incapable of reformation under the discipline of any institution or facility under the jurisdiction of the department as to render his or her retention detrimental to the interests of the department, the department may order the return of that person to the committing court. However, the return of any person to the



committing court does not relieve the department of any of its duties or responsibilities under the original commitment, and that commitment continues in full force and effect until it is vacated, modified, or set aside by order of the court.

If any person is returned to the committing court, his or her transportation shall be made, and the compensation therefor paid, as provided for the order of commitment.

SEC. 4. Section 1000.7 of the Welfare and Institutions Code is amended to read:

1000.7. As used in this chapter, “Youth Authority” “authority” and “the authority” mean and refer to the Department of the Youth Authority and “board” means and refers to the Youth Authority Board.

SEC. 5. Section 1009 of the Welfare and Institutions Code is amended to read:

1009. The Department of the Youth Authority may order the return of nonresident persons committed to the department or confined in institutions or facilities subject to the jurisdiction of the department to the states in which they have legal residence. Whenever any public officer, other than an officer or employee of the department, receives from any private source any moneys to defray the cost of that transportation, he or she shall immediately transmit the moneys to the department. All moneys, together with any moneys received directly by the department from private sources for transportation of nonresidents, shall be deposited by the department in the State Treasury, in augmentation of the current appropriation for the support of the department.

SEC. 6. Section 1176 of the Welfare and Institutions Code is amended to read:

1176. When, in the opinion of the Youth Authority Board, any person committed to or confined in any such school deserves parole according to regulations established for the purpose, and it will be to his or her advantage to be paroled, the board may grant parole under conditions it deems best. A reputable home or place of employment shall be provided for each person so paroled.

SEC. 7. Section 1177 of the Welfare and Institutions Code is amended to read:

1177. When any person so paroled has proved his or her ability for honorable self-support, the Youth Authority Board shall give him or her honorable discharge. Any person on parole who violates the conditions of his or her parole may be returned to the Youth Authority.

SEC. 8. Section 1178 of the Welfare and Institutions Code is amended to read:



1178. The Youth Authority Board may grant honorable discharge to any person committed to or confined in any such school. The reason for that discharge shall be entered in the records.

SEC. 9. Section 1179 of the Welfare and Institutions Code is amended to read:

1179. (a) All persons honorably discharged from control of the Youth Authority Board shall thereafter be released from all penalties or disabilities resulting from the offenses for which they were committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, that a person shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

(b) Notwithstanding the provisions of subdivision (a), that person may be appointed and employed as a peace officer by the Department of the Youth Authority if (1) at least five years have passed since his or her honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the board, or (2) the person was employed as a peace officer by the department on or before January 1, 1983. No person who is under the jurisdiction of the department shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the department by the Youth Authority Board.

(c) Upon the final discharge or dismissal of any such person, the Department of the Youth Authority shall immediately certify the discharge or dismissal in writing, and shall transmit the certificate to the court by which the person was committed. The court shall thereupon dismiss the accusation and the action pending against that person.

SEC. 10. Section 1703 of the Welfare and Institutions Code is amended to read:

1703. As used in this chapter

(a) “Public offenses” means public offenses as that term is defined in the Penal Code;

(b) “Court” includes any official authorized to impose sentence for a public offense;

(c) “Youth Authority”, “Authority”, “authority” or “department” means the Department of the Youth Authority;

(d) “Board” or “board” means the Youth Authority Board.

(e) The masculine pronoun includes the feminine.

SEC. 11. Section 1712 of the Welfare and Institutions Code is amended to read:



1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Youth Authority Board shall be exercised and performed by the director. The director shall be the appointing authority for all civil service positions of employment in the department. The director may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) The director is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department of the Youth Authority. The rules shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(c) The Department of the Youth Authority shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The department may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 12. Section 1714 of the Welfare and Institutions Code is amended to read:

1714. The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another.

SEC. 13. Section 1716 of the Welfare and Institutions Code is amended to read:

1716. (a) There is in the Department of the Youth Authority a Youth Authority Board, which shall be composed of six members, one of whom shall be the Director of the Youth Authority who shall serve as the ex officio nonvoting chair of the board. Other than the chair, who is subject to appointment pursuant to Section 1711, the members shall be



appointed by the Governor, with the advice and consent of the Senate, for a term of four years, and shall devote their entire time to its work.

(b) The individuals who were members of the Youthful Offender Parole Board immediately prior to the effective date of this section shall continue in their respective terms of office as members of the Youth Authority Board as provided in this section. The positions held by one of the members whose term ends on March 15, 2007, and by one of the members whose term ends on March 15, 2006, shall be eliminated on the effective date of this section, reducing the composition of the board to five members, not including the position held by the Director of the Youth Authority. All other members shall continue to serve out their respective terms. Their successors shall hold office for terms of four years. The members shall be eligible for reappointment and shall hold office until the appointment and qualification of their successors, with the term of each new appointee to commence on the expiration date of the term of his or her predecessor.

(c) All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term.

(d) If the Senate, in lieu of failing to confirm, finds that it cannot consider all or any of the appointments to the Youth Authority Board adequately because the amount of legislative business and the probable duration of the session does not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

SEC. 14. Section 1717 of the Welfare and Institutions Code is amended to read:

1717. (a) Persons appointed to the Youth Authority Board shall have a broad background in and ability for appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which those persons are committed, and the evaluation of the individual's progress toward reformation. Insofar as practicable, members shall be selected who have a varied and sympathetic interest in youth correction work including persons widely experienced in the fields of corrections, sociology, law, law enforcement, mental health, and education.

(b) The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross





section of the racial, sexual, economic, and geographic features of the state.

(c) The Director of the Youth Authority shall serve as the ex officio nonvoting chair of the board. The chair shall be the administrative head of the board and shall exercise all duties and functions necessary to ensure that the responsibilities of the board are successfully discharged.

(d) Within 60 days of appointment and annually thereafter, persons appointed to the Youth Authority Board shall undergo a minimum of 40 hours of training in the following areas: treatment and training programs provided to wards at Youth Authority institutions, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs; a review of current national research on effective interventions with juvenile offenders and how they compare to department program and treatment services; parole services; board member duties and responsibilities; and a review of factors influencing ward lengths of stay and ward recidivism rates and their relationship to one another.

SEC. 15. Section 1718 of the Welfare and Institutions Code is amended to read:

1718. (a) The members of the board shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code and their actual necessary traveling expenses to the same extent as is provided for other state offices.

(b) The Governor may remove any member of the board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

SEC. 16. Section 1719 of the Welfare and Institutions Code is amended to read:

1719. (a) The following powers and duties shall be exercised and performed by the Youth Authority Board as such, or may be delegated to a panel, member, or case hearing representative as provided in Section 1721: discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals.

(b) Any ward may appeal an adjustment to his or her parole consideration date to a panel comprised of at least two board members.

(c) The following powers and duties shall be exercised and performed by the Department of the Youth Authority: return of persons to the court of commitment for redispotion by the court, determination of offense category, setting of parole consideration dates, conducting annual reviews, treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state





of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(d) The Department of the Youth Authority shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in department institutions, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions which distinguishes between minor, intermediate, and serious misconduct. The department may extend a ward's parole consideration date, subject to appeal pursuant to subdivision (b), from one to not more than 12 months, inclusive, for a sustained serious misconduct violation if all other sanctioning options have been considered and determined to be unsuitable in light of the ward's previous case history and the circumstances of the misconduct. In any case in which a parole consideration date has been extended, the disposition report shall clearly state the reasons for the extension. The length of any parole consideration date extension shall be based on the seriousness of the misconduct, the ward's prior disciplinary history, the ward's progress toward treatment objectives, the ward's earned program credits, and any extenuating or mitigating circumstances. The department shall promulgate regulations to implement a table of sanctions to be used in determining parole consideration date extensions. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

SEC. 17. Section 1720 of the Welfare and Institutions Code is amended to read:

1720. (a) The case of each ward shall be reviewed by the Department of the Youth Authority within 45 days of arrival at the department, and at other times as is necessary to meet the powers or duties of the board.

(b) The department shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the department considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) The ward shall be entitled to notice if his or her annual review is delayed beyond one year after the previous annual review hearing. The



ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

(d) Failure of the department to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

(e) Reviews conducted by the department pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and programming that is narrowly tailored to address the correctional treatment needs of the ward and is being provided in a timely manner that is designed to meet the parole consideration date set for the ward; an assessment of the ward's adjustment and responsiveness to treatment, programming, and custody; a review of the ward's disciplinary history and response to disciplinary sanctions; an updated individualized treatment plan for the ward that makes adjustments based on the review required by this subdivision; an estimated timeframe for the ward's commencement and completion of the treatment programs or services; and a review of any additional information relevant to the ward's progress.

(f) The department shall provide copies of the reviews prepared pursuant to this section to the court and the probation department of the committing county.

SEC. 18. Section 1721 of the Welfare and Institutions Code is amended to read:

1721. (a) The Youth Authority Board shall adopt policies governing the performance of its functions by the full board, or, pursuant to delegation, by panels, or referees. Whenever the board performs its functions meeting en banc in either public or executive sessions to decide matters of policy, four members shall be present and no action shall be valid unless it is concurred in by a majority vote of those present.

(b) Case hearing representatives from the Department of the Youth Authority may be employed to participate with the board in the hearing of cases and authority may be delegated to those persons as provided in this section.

(c) The board may delegate its authority to hear, consider, and act upon cases to members or case hearing representatives, sitting either on a panel or as a referee. A panel may consist of two or more members, a member and a case hearing representative, or two case hearing representatives. Two members of a panel shall constitute a quorum, and



no action of the panel shall be valid unless concurred in by a majority vote of those present.

(d) When delegating its authority, the board may condition finality of the decision of the panel or referee to whom authority is delegated on concurrence of a member or members of the board. In determining whether, in any case, it shall delegate its authority and the extent of such delegation, the board shall take into account the degree of complexity of the issues presented by the case.

(e) The board shall adopt rules under which a person under the jurisdiction of the Youth Authority or other persons, as specified in those rules, may appeal any decision of a case hearing representative. Any decision resulting in the extension of a parole consideration date shall entitle a ward to appeal the decision to a panel of at least two board members. The board shall consider and act upon the appeal in accordance with those rules.

SEC. 19. Section 1722 of the Welfare and Institutions Code is amended to read:

1722. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Youth Authority Board, shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The board shall maintain, publish, and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exception to the procedures specified in this section shall apply to the board: The chairperson may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 20. Section 1723 of the Welfare and Institutions Code is amended to read:

1723. (a) Except as provided in Section 1721, every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the Youth Authority shall be made by the Youth Authority Board or its designee, as authorized by this article.

(b) All other powers conferred to the Youth Authority Board may be exercised through subordinates or delegated to the Department of the Youth Authority under rules established by the board. Any person subjected to an order of those subordinates or of the department pursuant



to that delegation may petition the board for review. The board may review those orders under appropriate rules and regulations.

(c) All board designees shall be subject to the training required pursuant to subdivision (d) of Section 1717.

SEC. 21. Section 1724 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 1725 of the Welfare and Institutions Code is amended to read:

1725. The Youth Authority Board shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Youthful Offender Parole Board, as authorized by this article. The Youthful Offender Parole Board is abolished.

SEC. 23. Section 1726 of the Welfare and Institutions Code is amended to read:

1726. (a) Employees of the Department of the Youth Authority who are needed to support the functions of the Youth Authority Board shall be selected and appointed pursuant to the State Civil Service Act.

(b) All officers and employees of the Youthful Offender Parole Board who on January 1, 2004, are serving in the state civil service, other than as temporary employees, as part of the direct staff of the Youthful Offender Parole Board shall be transferred to the Department of the Youth Authority and subject to retention pursuant to Section 19050.9 of the Government Code.

SEC. 24. Section 1727 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 1731.8 is added to the Welfare and Institutions Code, to read:

1731.8. Notwithstanding any other provision of law, within 60 days of the commitment of a ward to the Department of the Youth Authority, the department shall set an initial parole consideration date for the ward and shall notify the probation department and the committing juvenile court of that date. The department shall use the category offense guidelines contained in Sections 4951 to 4957, inclusive, of, and the deviation guidelines contained in subdivision (i) of Section 4945 of, Title 15 of the California Code of Regulations, that were in effect on January 1, 2003, in setting an initial parole consideration date.

SEC. 26. Section 1732.8 of the Welfare and Institutions Code is amended to read:

1732.8. (a) Notwithstanding any other law and subject to the provisions of this section, the Director of the Youth Authority may transfer to and cause to be confined within the custody of the Director of Corrections any person 18 years of age or older who is subject to the custody, control, and discipline of the Department of the Youth



Authority and who is scheduled to be returned, or has been returned, to the Department of the Youth Authority from the Department of Corrections after serving a sentence imposed pursuant to Section 1170 of the Penal Code for a felony that was committed while he or she was in the custody of the Department of the Youth Authority.

(b) No person shall be transferred pursuant to this section until and unless the person voluntarily, intelligently, and knowingly executes a written consent to the transfer, which shall be irrevocable.

(c) Prior to being returned to the Youth Authority, a person in the custody of the Department of Corrections who is scheduled to be returned to the Department of the Youth Authority shall meet personally with a Youth Authority parole agent or other appropriate Department of the Youth Authority staff member. The parole agent or staff member shall explain, using language clearly understandable to the person, all of the following matters:

(1) What will be expected from the person when he or she returns to a Youth Authority institution in terms of cooperative daily living conduct and participation in applicable counseling, academic, vocational, work experience, or specialized programming.

(2) The conditions of parole applicable to the person, and how those conditions will be monitored and enforced while the person is in the custody of the Youth Authority.

(3) The person's right under this section to voluntarily and irrevocably consent to continue to be housed in an institution under the jurisdiction of the Department of Corrections instead of being returned to the Youth Authority.

(d) A person who has been returned to the Youth Authority after serving a sentence described in subdivision (a) may be transferred to the custody of the Department of Corrections if the person consents to the transfer after having been provided with the explanations described in subdivision (c).

(e) If a Youth Authority person consents to being housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section, he or she shall be subject to the general rules and regulations of the Department of Corrections. The Youth Authority Board shall continue to determine the person's eligibility for parole at the same intervals, in the same manner, and under the same standards and criteria that would be applicable if the person were confined in the Department of the Youth Authority. However, the board shall not order or recommend any treatment, education, or other programming that is unavailable in the institution where the person is housed, and shall not deny parole to a person housed in the institution based solely on the person's failure to participate in programs unavailable to the person.



(f) Any person housed in an institution under the jurisdiction of the Department of Corrections pursuant to this section who has not attained a high school diploma or its equivalent shall participate in educational or vocational programs, to the extent the appropriate programs are available.

(g) Upon notification by the Director of Corrections that the person should be no longer be housed in an institution under its jurisdiction, the Department of the Youth Authority shall immediately send for, take, and receive the person back into an institution under its jurisdiction.

SEC. 27. Section 1737 of the Welfare and Institutions Code is amended to read:

1737. When a person has been committed to the custody of the authority, if it is deemed warranted by a diagnostic study and recommendation approved by the director, the judge who ordered the commitment or, if the judge is not available, the presiding judge of the court, within 120 days of the date of commitment on his or her own motion, or the court, at any time thereafter upon recommendation of the director, may recall the commitment previously ordered and resentence the person as if he or she had not previously been sentenced. The time served while in custody of the authority shall be credited toward the term of any person resentenced pursuant to this section.

As used in this section, “time served while in custody of the authority” means the period of time during which the person was physically confined in a state institution by order of the Department of the Youth Authority or the Youth Authority Board.

SEC. 28. Section 1737.1 of the Welfare and Institutions Code is amended to read:

1737.1. Whenever any person who has been convicted of a public offense in adult court and committed to and accepted by the Department of the Youth Authority appears to be an improper person to be retained by the department, or to be so incorrigible or so incapable of reformation under the discipline of the department as to render his or her detention detrimental to the interests of the department and the other persons committed thereto, the department may order the return of that person to the committing court. The court may then commit the person to a state prison or sentence him or her to a county jail as provided by law for punishment of the offense of which he or she was convicted. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he or she was convicted less the period during which he or she was under the control of the department. This section shall not apply to commitments from juvenile court.



As used in this section “period during which he or she was under the control of the department” means the period of time during which he or she was physically confined in a state institution by order of the department or the Youth Authority Board.

SEC. 29. Section 1752.82 of the Welfare and Institutions Code is amended to read:

1752.82. (a) Whenever an adult or minor is committed to or housed in a Youth Authority facility and he or she owes restitution to a victim or a restitution fine imposed pursuant to Section 13967, as operative on or before September 28, 1994, of the Government Code, or Section 1202.4 of the Penal Code, or Section 1203.04, as operative on or before August 2, 1994, of the Penal Code, or pursuant to Section 729.6, as operative on or before August 2, 1995, Section 730.6 or 731.1, as operative on or before August 2, 1995, the director may deduct a reasonable amount not to exceed 50 percent from the wages of that adult or minor and the amount so deducted, exclusive of the costs of administering this section, which shall be retained by the director, shall be transferred to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury in the case of a restitution fine, or, in the case of a restitution order, and upon the request of the victim, shall be paid directly to the victim. Any amount so deducted shall be credited against the amount owing on the fine or to the victim. The committing court shall be provided a record of any payments.

(b) A victim who has requested that restitution payments be paid directly to him or her pursuant to subdivision (a) shall provide a current address to the Youth Authority to enable the Youth Authority to send restitution payments collected on the victim’s behalf to the victim.

(c) In the case of a restitution order, whenever the victim has died, cannot be located, or has not requested the restitution payment, the director may deduct a reasonable amount not to exceed 50 percent of the wages of that adult or minor and the amount so deducted, exclusive of the costs of administering this section, which shall be retained by the director, shall be transferred to the California Victim Compensation and Government Claims Board, pursuant to subdivision (d), after one year has elapsed from the time the ward is discharged by the Youth Authority Board. Any amount so deducted shall be credited against the amount owing to the victim. The funds so transferred shall be deposited in the Restitution Fund.

(d) If the Youth Authority has collected restitution payments on behalf of a victim, the victim shall request those payments no later than one year after the ward has been discharged by the Youth Authority Board. Any victim who fails to request those payments within that time





period shall have relinquished all rights to the payments, unless he or she can show reasonable cause for failure to request those payments within that time period.

(e) The director shall transfer to the California Victim Compensation and Government Claims Board all restitution payments collected prior to the effective date of this section on behalf of victims who have died, cannot be located, or have not requested restitution payments. The California Victim Compensation and Government Claims Board shall deposit these amounts in the Restitution Fund.

(f) For purposes of this section, “victim” includes a victim’s immediate surviving family member, on whose behalf restitution has been ordered.

SEC. 30. Section 1754 of the Welfare and Institutions Code is amended to read:

1754. Nothing in this chapter shall be taken to give the Youth Authority Board or the director control over existing facilities, institutions or agencies; or to require them to serve the board or the director inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the board or the director power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

SEC. 31. Section 1757 of the Welfare and Institutions Code is amended to read:

1757. The director may inspect all public institutions and agencies whose facilities he or she is authorized to utilize and all private institutions and agencies whose facilities he or she is using. Every institution or agency, whether public or private, is required to afford the director reasonable opportunity to examine or consult with persons committed to the Youth Authority who are for the time being in the custody of the institution or agency.

SEC. 32. Section 1760 of the Welfare and Institutions Code is amended to read:

1760. The director is hereby authorized when necessary and when funds are available for these purposes to establish and operate any of the following:

(a) Places for the detention, prior to examination and study, of all persons committed to the Youth Authority.

(b) Places for examination and study of persons committed to the Youth Authority.



(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of the duties of the Youth Authority.

(d) Agencies and facilities for the supervision, training, and control of persons who have not been placed in confinement or who have been released from confinement by the Youth Authority Board upon conditions, and for aiding those persons to find employment and assistance.

(e) Agencies and facilities designed to aid persons who have been discharged by the Youth Authority Board in finding employment and in leading a law-abiding existence.

SEC. 33. Section 1765 of the Welfare and Institutions Code is amended to read:

1765. (a) Except as otherwise provided in this chapter, the Department of the Youth Authority and the Youth Authority Board shall keep under continued study a person in their control and shall retain him or her, subject to the limitations of this chapter, under supervision and control so long as in their judgment that control is necessary for the protection of the public.

(b) The board shall discharge that person as soon as in its opinion there is reasonable probability that he or she can be given full liberty without danger to the public.

SEC. 34. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) When a person has been committed to the Department of the Youth Authority, the Youth Authority Board may, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person committed to the Youth Authority pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731. Nothing in this subdivision limits the power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771.

(3) Order recommitment or renewed release under supervision as often as conditions indicate to be desirable.

(4) Revoke or modify any parole or disciplinary appeal order.



(5) Modify an order of discharge if conditions indicate that such modification is desirable and when that modification is to the benefit of the person committed to the authority.

(6) Discharge him or her from its control when it is satisfied that discharge is consistent with the protection of the public.

(b) Within 60 days of intake, the department shall provide the court and the probation department, with a treatment plan for the ward.

(c) A ward shall be entitled to an appearance hearing before a review panel of Youth Authority Board members for any action that would result in the extension of a parole consideration date pursuant to subdivision (e) of Section 1721.

(d) The department shall promulgate policies and regulations to implement this section.

(e) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the department and the Youth Authority Board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have had a parole consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(f) As used in subdivision (e), the term “ward case review” means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.

SEC. 35. Section 1766.1 of the Welfare and Institutions Code is amended to read:

1766.1. When permitting an adult or minor committed to the Department of the Youth Authority his or her liberty pursuant to subdivision (a) of Section 1766, the Youth Authority Board shall impose as a condition thereof that the adult or minor pay in full any restitution fine or restitution order imposed pursuant to Section 13967, as operative



on or before September 28, 1994, of the Government Code, or Section 1202.4 of the Penal Code, or Section 1203.4, as operative on or before August 2, 1994, of the Penal Code, or Section 730.6 or 731.1, as operative on or before August 2, 1995. Payment shall be in installments set in an amount consistent with the adult's or minor's ability to pay.

SEC. 36. Section 1767.1 of the Welfare and Institutions Code is amended to read:

1767.1. At least 30 days before the Youth Authority Board meets to review or consider the parole of any person who has been committed to the control of the Department of the Youth Authority for the commission of any offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707, or for the commission of an offense in violation of paragraph (2) of subdivision (a) of Section 262 or paragraph (3) of subdivision (a) of Section 261 of the Penal Code, the board shall send written notice of the hearing to each of the following persons: the judge of the court that committed the person to the authority, the attorney for the person, the district attorney of the county from which the person was committed, the law enforcement agency that investigated the case, and the victim pursuant to Section 1767. The board shall also send a progress report regarding the ward to the judge of the court that committed the person at the same time it sends the written notice to the judge.

Each of the persons so notified shall have the right to submit a written statement to the board at least 10 days prior to the decision for the board's consideration. Nothing in this subdivision shall be construed to permit any person so notified to attend the hearing. With respect to the parole of any person over the age of 18 years, the presiding officer of the board shall state findings and supporting reasons for the decision of the board. The findings and reasons shall be reduced to writing, and shall be made available for inspection by members of the public no later than 30 days from the date of the decision.

SEC. 37. Section 1767.3 of the Welfare and Institutions Code is amended to read:

1767.3. (a) The Youth Authority Board may suspend, cancel, or revoke any parole and may order returned to custody of the department any person committed to it who is on parole.

(b) The written order of the director is a sufficient warrant for any peace officer to return to the custody of the department any person committed to it who is on parole or who has been permitted his or her liberty on condition.

(c) The written order of the Director of the Youth Authority is a sufficient warrant for any peace officer to return to the custody of the department, pending further proceedings before the Youth Authority

Board or the Board of Prison Terms, any person committed to, or in the custody of, the department who is on parole or who has been permitted his or her liberty on condition, or for any peace officer to return to the custody of the department any person who has escaped from the custody of the department or from any institution or facility in which he or she has been placed by the department.

(d) All peace officers shall execute the orders in like manner as a felony warrant.

SEC. 38. Section 1767.4 of the Welfare and Institutions Code is amended to read:

1767.4. Whenever any person paroled by the Youth Authority Board is returned to the department upon the order of the director by a peace officer or probation officer, the officer shall be paid the same fees and expenses as are allowed those officers by law for the transportation of persons to institutions or facilities under the jurisdiction of the department.

SEC. 39. Section 1767.5 of the Welfare and Institutions Code is amended to read:

1767.5. The authority may pay any private home for the care of any person committed to the authority and paroled by the Youth Authority Board to the custody of the private home (including both persons committed to the authority under this chapter and persons committed to it by the juvenile court) at a rate to be approved by the Department of Finance. Payments for the care of paroled persons may be made from funds available to the authority for that purpose, or for the support of the institution or facility under the jurisdiction of the authority from which the person has been paroled.

SEC. 40. Section 1768.10 of the Welfare and Institutions Code is amended to read:

1768.10. Notwithstanding any other law, the Youth Authority Board may require a person under its jurisdiction or control to submit to an examination or test for tuberculosis when the board reasonably suspects that the parolee has, has had, or has been exposed to, tuberculosis in an infectious stage. For purposes of this section, an "examination or test for tuberculosis" means testing and followup examinations or treatment according to the Centers for Disease Control and the American Thoracic Society recommendations in effect at the time of the initial examination.

SEC. 41. Section 1772 of the Welfare and Institutions Code is amended to read:

1772. (a) Subject to subdivision (b), every person honorably discharged from control by the Youth Authority Board who has not, during the period of control by the authority, been placed by the authority



in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon that petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law.

(b) Notwithstanding subdivision (a):

(1) A person described by subdivision (a) shall not be eligible for appointment as a peace officer employed by any public agency if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code. However, that person may be appointed and employed as a peace officer by the Department of the Youth Authority if (A) at least five years have passed since his or her honorable discharge, and the person has had no misdemeanor or felony convictions except for traffic misdemeanors since he or she was honorably discharged by the Youth Authority Board, or (B) the person was employed as a peace officer by the Department of the Youth Authority on or before January 1, 1983. No person who is under the jurisdiction of the Department of the Youth Authority shall be admitted to an examination for a peace officer position with the department unless and until the person has been honorably discharged from the jurisdiction of the Youth Authority Board.

(2) A person described by subdivision (a) is subject to Sections 12021 and 12021.1 of the Penal Code.

(3) The conviction of a person described by subdivision (a) for an offense listed in subdivision (b) of Section 707 is admissible in a subsequent criminal, juvenile, or civil proceeding if otherwise admissible, if all the following are true:

(A) The person was 16 years of age or older at the time he or she committed the offense.

(B) The person was found unfit to be dealt with under the juvenile court law pursuant to Section 707 because he or she was alleged to have committed an offense listed in subdivision (b) of Section 707.

(C) The person was tried as an adult and convicted of an offense listed in subdivision (b) of Section 707.

(D) The person was committed to the Department of the Youth Authority for the offense referred to in subparagraph (C).

(4) The conviction of a person described by subdivision (a) may be used to enhance the punishment for a subsequent offense.



(5) The conviction of a person who is 18 years of age or older at the time he or she committed the offense is admissible in a subsequent civil, criminal, or juvenile proceeding, if otherwise admissible pursuant to law.

(c) Every person discharged from control by the Youth Authority Board shall be informed of the provisions of this section in writing at the time of discharge.

(d) “Honorably discharged” as used in this section means and includes every person whose discharge is based upon a good record on parole.

SEC. 42. Section 1778 of the Welfare and Institutions Code is amended to read:

1778. Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to a parole hearing or other adjudication concerning rights of a person committed to the control of the Youth Authority conducted by the Department of the Youth Authority or the Youth Authority Board.

SEC. 43. Section 1780 of the Welfare and Institutions Code is amended to read:

1780. If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he or she was convicted, and if the Department of the Youth Authority believes that unrestrained freedom for that person would be dangerous to the public, the Department of the Youth Authority shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the department bases its opinion that discharge from its control at the time stated would be dangerous to the public, but a petition may not be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

SEC. 44. Section 1781 of the Welfare and Institutions Code is amended to read:

1781. Upon the filing of a petition under this article, the court shall notify the person whose liberty is involved, and if he or she is a minor, his or her parent or guardian if practicable, of the application and shall afford him or her an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When he or she is unable to provide his or her own counsel, the court shall appoint counsel to represent him or her.

In the case of any person who is the subject of such a petition and who is under the control of the Youth Authority for the commission of any





offense of rape in violation of paragraph (1) or (2) of subdivision (a) of Section 262 or subdivision (2) or subdivision (3) of Section 261 of the Penal Code, or murder, the Department of the Youth Authority shall send written notice of the petition and of any hearing set for the petition to each of the following persons: the attorney for the person who is the subject of the petition, the district attorney of the county from which the person was committed, and the law enforcement agency that investigated the case. The department shall also send written notice to the victim of the rape or the next of kin of the person murdered if he or she requests notice from the department and keeps it apprised of his or her current mailing address. Notice shall be sent at least 30 days before the hearing.

SEC. 45. Section 1800 of the Welfare and Institutions Code is amended to read:

1800. Whenever the Department of the Youth Authority determines that the discharge of a person from the control of the department at the time required by Section 1766, 1769, 1770, 1770.1, or 1771, as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the department, through its director, shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the authority beyond that time. The petition shall be filed at least 90 days before the time of discharge otherwise required. The petition shall be accompanied by a written statement of the facts upon which the department bases its opinion that discharge from control of the department at the time stated would be physically dangerous to the public, but the petition may not be dismissed and an order may not be denied merely because of technical defects in the application.

The prosecuting attorney shall promptly notify the Department of the Youth Authority of a decision not to file a petition.

SEC. 46. Section 1800.5 is added to the Welfare and Institutions Code, to read:

1800.5. Notwithstanding any other provision of law, the Youth Authority Board may request the Director of the Youth Authority to review any case where the department has not made a request to the prosecuting attorney pursuant to Section 1800 and the board finds that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality. Upon the board's request, a mental health professional designated by the director shall review the case and thereafter may affirm the finding or order additional assessment of the ward. If, after review, the mental health designee affirms the initial finding, concludes that a subsequent



assessment does not demonstrate that a ward is subject to extended detention pursuant to Section 1800, or fails to respond to a request from the board within the timeframe mandated by this section, the board thereafter may request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the authority pursuant to Section 1800 if the board continues to find that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality. The board's request to the prosecuting attorney shall be accompanied by a copy of the ward's file and any documentation upon which the board bases its opinion, and shall include any documentation of the department's review and recommendations made pursuant to this section. Any request for review pursuant to this section shall be submitted to the director not less than 120 days before the date of final discharge, and the review shall be completed and transmitted to the board not more than 15 days after the request has been received.

SEC. 47. Section 1802 of the Welfare and Institutions Code is amended to read:

1802. When an order for continued detention is made as provided in Section 1801, the control of the authority over the person shall continue, subject to the provisions of this chapter, but, unless the person is previously discharged as provided in Section 1766, the authority shall, within two years after the date of that order in the case of persons committed by the juvenile court, or within two years after the date of that order in the case of persons committed after conviction in criminal proceedings, file a new application for continued detention in accordance with the provisions of Section 1800 if continued detention is deemed necessary. These applications may be repeated at intervals as often as in the opinion of the authority may be necessary for the protection of the public, except that the department shall have the power, in order to protect other persons in the custody of the department to transfer the custody of any person over 21 years of age to the Director of Corrections for placement in the appropriate institution.

Each person shall be discharged from the control of the authority at the termination of the period stated in this section unless the authority has filed a new application and the court has made a new order for continued detention as provided above in this section.

SEC. 48. Section 1830 of the Welfare and Institutions Code is amended to read:

1830. The Director of the Youth Authority may participate in a local work furlough program established pursuant to subdivision (a) of Section 1208 of the Penal Code, or conduct or discontinue a work furlough rehabilitation program, in accordance with the provisions of



this article, for appropriate classes of wards at one or more Youth Authority institutions. He or she may designate any officer or employee of the department to be the Youth Authority work furlough administrator and may assign personnel to assist the administrator.

SEC. 49. It is the intent of the Legislature that the Youth Authority Board be housed within the Department of the Youth Authority. The Department of General Services shall evaluate the options regarding current leases and determine when a move is appropriate.

SEC. 50. The sum of one million five hundred and fifty thousand dollars (\$1,550,000) is hereby appropriated from the General Fund to the Youthful Offender Parole Board to supplement funding provided in Item 5450-001-0001 of the Budget Act of 2002.

SEC. 51. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

SEC. 52. Sections 1 to 49, inclusive, of this act shall become operative on January 1, 2004.

